

No. 13-1040 PO

¹ The certified mail receipt does not show the date of delivery, but the receipt was filed with us on June 24, 2013.

to file his answer and to respond to the motion for summary decision. Rasmussen filed neither an answer nor a response to the motion by that date.

Pursuant to 1 CSR 15-3.446(6)(A),² we may decide a motion for summary decision if a party establishes facts that entitle that party to a favorable decision and no party genuinely disputes such facts. Those facts may be established by stipulation, pleading of the adverse party, or other evidence admissible under the law.³ The motion relies on certified court records, which are admissible pursuant to § 536.070(10)⁴ and § 490.130, and a notarized affidavit regarding licensure. The following facts, based on that evidence, are undisputed.

Findings of Fact

1. Rasmussen is licensed as a peace officer. His license is, and was at all relevant times, current and active.

2. On February 26, 2008, in Maries County, Missouri, Rasmussen committed the Class A misdemeanor of defrauding secured creditors in that he, with purpose to defraud, failed to purchase a GMC pickup truck as he had agreed with Mid-America Bank, so that the pickup truck would be subject to a security interest.

3. On February 6, 2012, in the Circuit Court of Maries County, Rasmussen pled guilty to defrauding secured creditors, in violation of § 570.180,⁵ a Class A misdemeanor. The court suspended imposition of sentence, placed Rasmussen on supervised probation for two years, and ordered him to pay restitution.

² All references to “CSR” are to the Missouri Code of State Regulations, as current with amendments included in the Missouri Register through the most recent update.

³1 CSR 15-3.446(6)(B).

⁴Statutory references, unless otherwise noted, are to RSMo Supp. 2012.

⁵RSMo 2000.

Conclusions of Law

We have jurisdiction to hear this case.⁶ The Director has the burden of proving that Rasmussen has committed an act for which the law allows discipline.⁷ The Director alleges that there is cause for discipline under § 590.080.1(2):

1. The director shall have cause to discipline any peace officer licensee who:

(2) Has committed any criminal offense, whether or not a criminal charge has been filed[.]

Rasmussen pled guilty to defrauding secured creditors under § 570.180:

1. A person commits the crime of defrauding secured creditors if he destroys, removes, conceals, encumbers, transfers or otherwise deals with property subject to a security interest with purpose to defraud the holder of the security interest.

Defrauding secured creditors is a Class A misdemeanor and, therefore, a criminal offense.⁸ A guilty plea is evidence of the conduct charged. The plea constitutes a declaration against interest, which, because the court suspended imposition of sentence, the defendant may explain away.⁹ Rasmussen made no attempt to do so. We find he committed the criminal offense. There is cause to discipline his license under § 590.080.1(2).

Summary

Rasmussen is subject to discipline under § 590.080.1(2). We cancel the hearing.

SO ORDERED on November 12, 2013.

\s\ Sreenivasa Rao Dandamudi
SREENIVASA RAO DANDAMUDI
Commissioner

⁶Section 590.080.2.

⁷*Missouri Real Estate Comm'n v. Berger*, 764 S.W.2d 706, 711 (Mo. App., E.D. 1989).

⁸Section 556.016.3, RSMo 2000.

⁹*Nichols v. Blake*, 418 S.W.2d 188, 190 (Mo. 1967).